

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CONWEST RESOURCES, INC., a Nevada
Corporation,

No. C 06-5304 SBA

Plaintiff,

ORDER

v.

PLAYTIME NOVELTIES, INC., d/b/a
EROSTAR EROTIC NOVELTIES, a
Pennsylvania Corporation; and THOMAS
SHERWOOD, an individual, citizen of U.S.A.,

Defendants.

This matter comes before the Court on Defendants' Motion to Shorten Time.

On August 29, 2006, Plaintiff filed a Complaint alleging copyright and trademark infringement, false designation of origin, unfair trade practices, and common law unfair competition. On September 8, 2006, Plaintiff noticed a Motion for Preliminary Injunction for November 14, 2006.

On October 19, 2006, Defendants filed a Motion to Dismiss for Improper Venue and Failure to State a Claim or, in the alternative, to Transfer Venue and a Motion to Strike. Defendants simultaneously filed the instant Motion to Shorten Time. Defendants argue that the Court should hear its Motions before the Motion for Preliminary Injunction, because Plaintiff's claims are subject to a binding arbitration agreement, and because if Plaintiff's claims are not properly before this Court, then the Court should not adjudicate the Motion for Preliminary Injunction. Defendant requests that the Court set its Motions for hearing on November 14, 2006, with Plaintiff's oppositions due on October 31.


Plaintiff correctly points out that this Court may consider a request for preliminary injunctive relief even if the dispute will be arbitrated. *See PMS Distributing Co., Inc. v. Huber & Suhner*, 863 F.2d 639 (9th Cir. 1988); *Clouser v. Ion Beam Applications, Inc.*, 2004 WL 540514 (N.D. Cal. Mar. 18,

2004). Further, the Court agrees that requiring Plaintiff to respond to Defendants' Motions by October 31 would unfairly prejudice Plaintiff. Moreover, the purpose of a preliminary injunction is to preserve the status quo pending decision on the merits. *See E. & J. Gallo Winery v. Andina Licores S.A.*, 446 F.3d 984, 990 (9th Cir. 2006). The Court is unpersuaded that it is necessary to decide Defendants' Motions first.

Accordingly, Defendants' Motion to Shorten Time is DENIED. IT IS HEREBY ORDERED THAT Defendants' Motions to Dismiss or Transfer Venue and to Strike shall be heard on December 19, 2006 at 1:00 p.m. The Court may, in its discretion, adjudicate the Motion without a hearing, in which case the Clerk will notify the parties that no appearance is necessary.

IT IS SO ORDERED.

Dated: 10/24/06


SAUNDRA BROWN ARMSTRONG
United States District Judge